

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13-cv-160-RJC**

RICARDO MENDEZ-VALDEZ,)
)
 Plaintiff,)
)
 vs.)
)
 THOMAS O'MALLEY, et al.,)
)
)
 Defendants.)
 _____)

ORDER

THIS MATTER is before the Court on the pro se Plaintiff's Motion to Dismiss (Doc. No. 6). The Court construes the motion as a motion for voluntary dismissal under Rule 41 of the Federal Rules of Civil Procedure.

Under Rule 41, Plaintiff could have filed a notice of dismissal without a court order. See FED. R. CIV. P. 41(a)(1)(A)(i) (stating that the plaintiff may take a voluntary dismissal without a court order "before the opposing party serves either an answer or a motion for summary judgment"). In any event, the Court will grant Plaintiff's motion to dismiss. Plaintiff states in his motion to dismiss that he did not intend to prosecute this action and he would like for this Court to "withdraw" the Order of the Court requiring partial payment from Plaintiff's trust account. The Court will not withdraw the Order, as Plaintiff is still required to pay the full filing fee even though he is taking a voluntary dismissal of this action. See McGore v. Wigglesworth, 114 F.3d 601, 607 (6th Cir. 1997); see also 28 U.S.C. § 1915(b)(1) (stating that "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee").

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Dismiss, (Doc. No. 6), is **GRANTED**.
2. The Clerk is instructed to terminate this action.

Signed: August 19, 2013

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

